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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92042082
Party	Defendant International Gold Star Trading Corp.
Correspondence Address	ROGER S. THOMPSON COHEN, PONTAIN, LIEBERMAN & PAVANE LLP 551 FIFTH AVENUE , SUITE 1201 NEW YORK, NY 10176 UNITED STATES RThompson@cplplaw.com
Submission	Testimony For Defendant
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Signature	/Roger S. Thompson/
Date	04/28/2010
Attachments	Zagranichny Transcript.pdf ( 26 pages )(95782 bytes ) Registrant Ex. 139.pdf ( 2 pages )(104314 bytes )

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

FOUR SEASONS DAIRY, INC.,	)	
	)	
Petitioner,	)	
	)	Cancellation No.
vs.	)	92/042,082
	)	Mark: Babushka's
INTERNATIONAL GOLD STAR	)	Recipe
TRADING CORP.,	)	Reg. No. 2,479,287
	)	
Registrant.	)	
-----	)	

DEPOSITION OF IGOR ZAGRANICHNY  
New York, New York  
Monday, October 20, 2008

Reported by:  
FRANCIS X. FREDERICK, CSR, RPR, RMR  
JOB NO. 19191

1  
2  
3  
4  
5 October 20, 2008

6 1:33 p.m.  
7  
8

9 Deposition of IGOR ZAGRANICHNY,  
10 held at the offices of Cohen, Pontani,  
11 Lieberman & Pavan, 551 Fifth Avenue, New  
12 York, New York, pursuant to Notice,  
13 before Francis X. Frederick, a Certified  
14 Shorthand Reporter, Registered Merit  
15 Reporter and Notary Public of the States  
16 of New York and New Jersey.  
17  
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21  
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24  
25

A P P E A R A N C E S:

SAMUEL FRIEDMAN, ESQ.

Attorneys for Petitioner

225 Broadway - Suite 1804

New York, New York 10007

COHEN PONTANI LIEBERMAN & PAVANE, LLP

Attorneys for Registrant

551 Fifth Avenue - Suite 1210

New York, New York 10176

BY: ROGER S. THOMPSON, ESQ.

ALSO PRESENT:

GALINA PINCOW, International Gold Star

## 1 I. ZAGRANICHNY

2 (Registrant Exhibit 139, Amended  
3 Notice of Deposition of Igor Zagranichny,  
4 marked for identification as of this  
5 date.)

6 I G O R Z A G R A N I C H N Y, called as  
7 a witness, having been duly sworn by a  
8 Notary Public, was examined and  
9 testified as follows:

10 EXAMINATION BY

11 MR. THOMPSON:

12 Q. We've had the reporter hand you a  
13 document which has just been marked as  
14 Exhibit 139 which is the Amended Notice of  
15 Deposition of Igor Zagranichy of 137 Browning  
16 Avenue, Staten Island, New York. Is that you?

17 A. Yeah. It's me.

18 Q. Thank you, Mr. Zagranichny.

19 Are you currently employed?

20 A. Yes.

21 Q. What do you do?

22 A. Construction.

23 Q. Have you ever had a business  
24 related to the food industry?

25 A. Yes, I did.

I. ZAGRANICHNY

Q. What kind of business?

A. Caviar. I was importing black caviar. And some other caviar.

Q. And what was the name of that business?

A. Roman & Son, Inc.

Q. In the course of your having the business Roman & Sons -- well, first, when did you have the business of Roman & Sons?

A. It was about '94, '95. I'm not sure exactly.

Q. And until when?

A. Until 2005.

Q. During the course of the operation of Roman & Sons, were you involved with its day-to-day operation?

A. Yes.

Q. What did you do?

A. Mostly I was a salesperson. I was selling all the product. I was buy -- I was buy it and sell.

Q. Were you also personally involved with any of the customers of Roman & Sons?

MR. FRIEDMAN: Can we just go back

## 1 I. ZAGRANICHNY

2 the last few answers. I just didn't  
3 understand the witness.

4 (Record read.)

5 Q. Were you personally involved with  
6 dealing with the customers of Roman & Sons?

7 A. Ninety-nine percent of customers I  
8 was personally involved.

9 Q. During the course of your dealings  
10 with -- at Roman & Sons, did you ever come  
11 into contact with the business called Beluga  
12 Caviar?

13 A. Yes. That was one of my  
14 customers. They used to buy a lot of caviar  
15 from me. And I used to contact them almost  
16 like on a daily basis. Like twice a week I  
17 was there.

18 Q. So you were physically there twice  
19 a week and you focused --

20 A. Twice a week because I was deliver  
21 it by myself most of the time, the caviar.  
22 Because, you know, when it's caviar you need  
23 to check it, you need to open it. So it was  
24 involved all managers to be there.

25 Q. And with whom did you deal when

I. ZAGRANICHNY

were you at -- dealing with Beluga Caviar?

A. With Michael Lembersky. With Alex Lembersky. With Ms. Lembersky.

Q. What was their position at Beluga Caviar, if you know?

MR. FRIEDMAN: Objection. Their. I think three people have been identified.

MR. THOMPSON: All right.

Q. You mentioned Mr. Alex Lembersky. What was his position at Beluga Caviar if you know?

A. He was a manager.

Q. And Mr. Michael Lembersky?

A. The same thing. They was two managers who buy the caviar.

Q. And did you mention a third name? I'm sorry.

A. Ms. Lembersky was the wife of Michael Lembersky.

Q. And what did she do?

A. She was mostly accountant.

Q. Did you ever come into contact with an individual named Arcadi Golub?



I. ZAGRANICHNY

A. No.

Q. Who in addition to Michael and Alex Lembersky and Mrs. Lembersky, if anyone, was involved with the management of Beluga Caviar?

A. No.

MR. FRIEDMAN: Objection.

MR. THOMPSON: On what basis?

MR. FRIEDMAN: Foundation.

Q. When you dealt with Beluga Caviar you said that you routinely had to deal with the managers at --

A. Yes.

Q. Why was that?

A. Because I was selling them product and when you sell the product you deal with always the management staff of the company.

Q. So you would deal with the people who would be involved with buying and selling the product?

A. Yes.

MR. FRIEDMAN: Objection.

Q. Would you be also dealing with the people who would be responsible for ensuring

## 1 I. ZAGRANICHNY

2 that your deliveries were of satisfactory  
3 quality?

4 A. Yes.

5 Q. When you delivered product to  
6 Beluga Caviar what did you do?

7 A. I delivered the product. We  
8 opened the product. We checked each can  
9 because it was expensive product. Michael or  
10 Alex, someone, was always checking the  
11 product.

12 Q. Did anybody other than Michael or  
13 Alex ever check the product?

14 A. No.

15 Q. Did you see anyone there who  
16 exerted any sort of management authority over  
17 their employees?

18 A. Not really. I didn't see.  
19 Anybody that I just saw the guys who were  
20 loading or unloading the product. But was not  
21 any management of the company.

22 MR. THOMPSON: I have no further  
23 questions.

I. ZAGRANICHNY

EXAMINATION BY

MR. FRIEDMAN:

Q. My name is Samuel Friedman. I represent Four Seasons and I'll be asking you a few questions also.

A. Sure.

Q. So what was the business of Roman & Sons?

A. Manager of the business used to be selling black caviar and red caviar.

Q. Where was Roman & Sons located?

A. It used to be 27 Story Street.

Q. In Brooklyn?

A. Brooklyn, New York, 11218.

Q. And what did Roman & Son do?

A. We used to buy a lot of product, a lot of caviar from Russia, from farm-raised caviar from California from a company named Stahl. We got exclusive for all their product couple of years and we used to resell this product to the market.

Q. So was the business of Roman & Sons limited to caviar?

A. Some part of the fish caviar.

I. ZAGRANICHNY

Q. Did you have an ownership in Roman & Sons?

A. Yes.

Q. Did you have any partners?

A. Yes.

Q. Who was your partner?

A. My father. He passed away in 199- -- in 2000 he passed away.

Q. Did you have any dealings with Robert Pincow when you were at Roman & Sons?

A. Yes.

Q. What were your dealings with Mr. Pincow?

A. I tried to sell them product, too. Caviar.

Q. Did Mr. Pincow have any ownership interest in Roman & Sons?

A. No.

Q. How about Mrs. Pincow who is sitting here today?

A. No. Not at all.

Q. So was it then limited to you and your father?

A. Yes.

I. ZAGRANICHNY

Q. And when did you start doing business as Roman & Sons?

A. About '94, '95. I'm not sure.

Q. And your dealings with Beluga Caviar were limited to selling caviar to Beluga Caviar?

A. Yes.

Q. Did you sell any dairy products to them?

A. No.

Q. Did you buy any dairy products from them?

A. No.

Q. Was Beluga Caviar in operation in 1994?

A. Yeah, sure.

Q. And what was the business of Beluga Caviar in 1994?

A. What do you mean the business?

Q. What did they do?

A. They used to sell grocery, smoked meat, and caviar. They used to be in the caviar for longer than me. They started I -- don't know. It's long time.

## 1 I. ZAGRANICHNY

2 Q. But you mentioned that they were  
3 into groceries --

4 A. Yeah. They do groceries. They do  
5 kilba -- smoked meat. They do some cheeses.

6 Q. Did you ever sell cheeses to them?

7 A. No, I didn't.

8 Q. Did you ever buy cheeses from  
9 them?

10 A. No. You asked me that already.

11 Q. When in 19 -- I'll only be a few  
12 more minutes.

13 A. Sure.

14 Q. In 1994 how many people worked at  
15 Beluga Caviar?

16 A. About five, six people including  
17 the -- three of the manager, his wife, his  
18 son, and Michael. And it was two loading and  
19 unloading guys. Five people. Two guys was  
20 loading and unloading.

21 Q. Two guys loading and unloading.

22 A. Yeah.

23 Q. Who are those two guys?

24 A. I don't remember their names but  
25 it was two Russian guys.

1 I. ZAGRANICHNY

2 Q. Okay. How about in 1995, how many  
3 people worked at Beluga Caviar?

4 MR. THOMPSON: I think you just  
5 asked that.

6 MR. FRIEDMAN: No, I asked 1994.

7 MR. THOMPSON: I'm sorry. I  
8 thought you said 1995 the first time.

9 A. I cannot remember. I think it's  
10 the same amount of people. I think they got a  
11 couple more people, trucks was added about  
12 '98, '99, they bought some new truck with new  
13 driver.

14 Q. They bought a new truck with a new  
15 driver and --

16 A. They put extra driver on the road.

17 Q. So how many people worked at  
18 Beluga Caviar in 1998?

19 A. Say about seven, eight people.

20 Q. Did you know all of those people?

21 A. Mostly I meet them because when I  
22 come in the morning to -- before drivers leave  
23 I try to give them caviar, because they were  
24 delivering to different states.

25 Q. I don't understand your answer.

## 1 I. ZAGRANICHNY

2 A. I tried to come in the morning.  
3 For my delivery I tried to do about 8, 9:00 in  
4 the morning before trucks leave to different  
5 states. That's why I was there.

6 Q. Before the trucks were leaving for  
7 different states.

8 A. Yes.

9 Q. So could you please identify the  
10 people who worked at Beluga Caviar in 1998.

11 A. I remember only Michael, Alex.  
12 Only the management staff. Regular drivers.  
13 I don't remember them by names.

14 Q. So there were about five people  
15 working there whose names you don't remember.

16 A. Of course.

17 Q. What about in 1999? How many  
18 people worked there in '99?

19 A. I think it was the same.

20 Q. Same?

21 A. Something similar.

22 Q. The people's whose names you don't  
23 remember, did they change or did they stay the  
24 same?

25 A. I think they was the same people



## 1 I. ZAGRANICHNY

2 for couple years.

3 Q. Okay. So what people were the  
4 same for a couple of years?5 A. The couple guys who were taking  
6 the caviar from me. You know, when we bring  
7 they put it on the table, they help you to put  
8 it, they put it back in the car whatever they  
9 don't like.10 Q. Do you remember anything about any  
11 of their names?

12 A. No.

13 Q. First names?

14 A. No. I don't remember.

15 Q. Nicknames?

16 Do you remember what they looked  
17 like?18 A. I do remember. It was Russian  
19 guys. Skinny. What else I can tell you?

20 Q. Were they all men or were --

21 A. All men.

22 Q. All men?

23 A. All men.

24 Q. And all skinny?

25 A. Skinny.

I. ZAGRANICHNY

Q. Did anybody speak -- what language did you speak with them in?

A. Russian only.

Q. How late did Beluga Caviar stay open in the afternoon?

A. About 3 or 4.

Q. They would close about 3 or 4 in the afternoon.

A. Yeah.

Q. They didn't stay open till 5:00?

A. No. Not that much.

Q. So if people wanted to buy groceries at 5:00 they couldn't.

A. No. It was only wholesale. It was not retail store.

Q. Did you order any product from Beluga Caviar?

A. No, I didn't.

Q. How about in the year 2001? How many people worked there?

A. I'm not sure if they was still in business. 2001 I think they was already closed down. I'm not sure if 2001 or 2000 -- I think 2001 they closed down. 2002.

## 1 I. ZAGRANICHNY

2 Something like this. I'm not sure. They was  
3 not successful.

4 Q. Have you ever been convicted of a  
5 crime?

6 A. No.

7 Q. Do you sell any caviar to  
8 International Gold Star?

9 A. A little bit.

10 MR. THOMPSON: Are you asking  
11 today? It sounds like you're putting it  
12 in the present tense as opposed to some  
13 point in the past.

14 Q. Did you ever sell caviar to  
15 International Gold Star?

16 A. I think so, yes.

17 Q. When did -- did Roman & Sons, did  
18 they ever go out of business?

19 A. No. It's company -- still open  
20 company, but we're not operating. Because of  
21 change of carrier rules, we can't get any  
22 situs from Russia anyway now. Special  
23 permission to bring black caviar from Russian.

24 Q. When did you stop working at Roman  
25 & Sons?

## 1 I. ZAGRANICHNY

2 A. I stop working about three, four  
3 years ago.

4 Q. So that would have been about  
5 2004?

6 A. 2004, '95, something, yes.

7 Q. So during the period that you  
8 worked at Roman & Sons, did you deliver caviar  
9 to International Gold Star?

10 A. Yes, I did.

11 Q. How often did you deliver to them?

12 A. Not often. Maybe once a month.  
13 Maybe once every two months.

14 Q. In the period of, say, 1998 did  
15 you make deliveries to International Gold Star  
16 once a month?

17 A. Sometimes. Maybe less. Maybe --  
18 I don't remember exactly. You know, Gold Star  
19 was not a big customer for me.

20 Q. With whom at International Gold  
21 Star did you speak when you delivered caviar  
22 there?

23 A. They got managers by name is Yan  
24 and I spoke with Robert Pincow.

25 Q. The managers's name was Yan?

I. ZAGRANICHNY

A. Yes.

Q. And was Yan the same manager for many years?

A. As much as I see, yes.

Q. As much as you saw.

A. Yeah.

Q. He's the only manager that you dealt with at International Gold Star?

A. Most of the times.

Q. Who are the others besides Yan and Robert Pincow that you dealt with at International Gold Star?

MR. THOMPSON: Objection to form.

By those it's not clear whether you're referring to other managers or other people who may or may not have managerial responsibilities.

Q. When you made deliveries to International Gold Star one person that you dealt with was Yan, correct?

A. Yes.

Q. Another person was Robert Pincow, correct?

A. Yes.

I. ZAGRANICHNY

Q. Was there anybody else at International Gold Star that you dealt with?

A. Also was manager by name of Anatoli.

Q. Sanatoli.

A. Anatoli.

Q. Anatoli? Anybody else?

A. No.

Q. What did Anatoli do at Gold Star?

A. I think he was a manager of fish department.

Q. Was Anatoli a first name or a last name?

A. Anatoli is first name.

Q. Do you remember his last name?

A. No.

Q. And Yan, is that a first name?

A. Yes.

Q. Do you know his last name?

A. No.

Q. What did Yan do?

A. He's a general manager of the company.

Q. General manager.

I. ZAGRANICHNY

A. Yes.

Q. So he dealt with caviar?

A. He deal with all the product.

Q. I'm sorry?

A. He deal with all the product in Gold Star. Most of the -- with caviar mostly deal with Robert Pincow.

Q. About how many people worked at Gold Star back in 1998?

A. I don't know. Much more. Much more. I don't know how many exactly because, you know, I never go through all the company but I know it's much more than Beluga Caviar.

Q. And Beluga Caviar, do you remember where they were located?

A. Yes. They used to have two -- before, long time ago, they used to be on Baltic Street. And after they moved to Second Avenue all the way on the end. I'm not sure what street it was. But like let's say maybe 12, maybe less. Maybe 10. Something.

MR. FRIEDMAN: No further questions.

THE WITNESS: Thank you.

1 I. ZAGRANICHNY

2 MR. THOMPSON: And thank you.

3 (Time Noted: 1:52 p.m.)

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18  
19 \_\_\_\_\_  
20 IGOR ZAGRANICHY

21  
22 Subscribed and sworn to before me  
23 this \_\_\_\_ day of \_\_\_\_\_, 2008.



C E R T I F I C A T E

STATE OF NEW YORK )

: ss.

COUNTY OF NEW YORK )

I, FRANCIS X. FREDERICK, a Notary  
Public within and for the State of New  
York, do hereby certify:

That IGOR ZAGRANICHY, the witness  
whose deposition is hereinbefore set  
forth, was duly sworn by me and that  
such deposition is a true record of the  
testimony given by the witness.

I further certify that I am not  
related to any of the parties to this  
action by blood or marriage, and that I  
am in no way interested in the outcome  
of this matter.

IN WITNESS WHEREOF, I have  
hereunto set my hand this 27th day of  
October, 2008.

---

FRANCIS X. FREDERICK

## ----- I N D E X -----

WITNESS	EXAMINATION BY	PAGE
IGOR ZAGRANICHY	MR. THOMPSON	4
	MR. FRIEDMAN	10

## ----- INFORMATION REQUESTS -----

DIRECTIONS: NONE

RULINGS: NONE

TO BE FURNISHED: NONE

REQUESTS: NONE

MOTIONS: NONE

## ----- EXHIBITS -----

REGISTRANT FOR ID.

Exhibit 139

Amended Notice of Deposition of

Igor Zagranichy..... 4

1  
2 NAME OF CASE: FOUR SEASONS v. IGS  
3 DATE OF DEPOSITION: OCTOBER 20, 2008  
4 NAME OF WITNESS: IGOR ZAGRANICHY  
5 Reason codes:

- 6 1. To clarify the record.  
7 2. To conform to the facts.  
8 3. To correct transcription errors.

9 Page \_\_\_\_\_ Line \_\_\_\_\_ Reason \_\_\_\_\_  
10 From \_\_\_\_\_ to \_\_\_\_\_

11 Page \_\_\_\_\_ Line \_\_\_\_\_ Reason \_\_\_\_\_  
12 From \_\_\_\_\_ to \_\_\_\_\_

13 Page \_\_\_\_\_ Line \_\_\_\_\_ Reason \_\_\_\_\_  
14 From \_\_\_\_\_ to \_\_\_\_\_

15 Page \_\_\_\_\_ Line \_\_\_\_\_ Reason \_\_\_\_\_  
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IGOR ZAGRANICHY

-----X	
FOUR SEASONS DAIRY, INC.,	:
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Petitioner,	:
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v.	:
	:
INTERNATIONAL GOLD STAR	:
TRADING CORP.,	:
	:
Registrant.	:
	:
-----X	

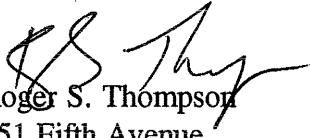
Cancellation No. 92/042,082
Mark: <b>BABUSHKA'S RECIPE</b>
Reg. No. 2,479,287

PLEASE TAKE NOTICE that, pursuant to Rule 30(a)(1) of the Federal Rules of Civil Procedure, Registrant, Gold Star International Trading Corp. ("Gold Star"), will take the deposition of Igor Zagranichniy of 137 Browning Ave., Staten Island, NY 10314 in the above-captioned action, at the offices of Cohen Pontani Lieberman & Pavane, LLP, located at 551 Fifth Avenue, Suite 1210, New York, New York, before a person designated by Rule 28 of the Federal Rules of Civil Procedure, by stenographic and audiovisual means, commencing on October 20, 2008 at 2:30 p.m., and continuing thereafter from day to day until completed.

You are invited to attend and cross-examine.

Respectfully submitted,  
COHEN, PONTANI, LIEBERMAN & PAVANE

By

  
Roger S. Thompson  
551 Fifth Avenue  
New York, New York 10176  
(212) 687-2770

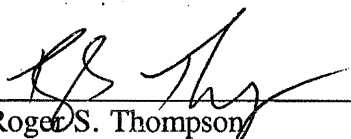
Dated: October 10, 2008

*Attorneys for Registrant,*  
International Gold Star Trading Corp.

**CERTIFICATE OF SERVICE**

I hereby certify that on the date set forth below, a true and correct copy of the foregoing Notice of Deposition was served by first-class mail, postage pre-paid, and by e-mail on counsel for petitioner, addressed as follows:

Samuel Friedman, Esq.  
[samfriedman@verizon.net](mailto:samfriedman@verizon.net)  
225 Broadway, Suite 1804  
New York, New York 10007

  
\_\_\_\_\_  
Roger S. Thompson  
*Counsel for Registrant*

October 10, 2008  
Date